

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JAMES M. SEBASTIAN, SR.

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Plaintiff

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CIVIL ACTION NO. 02-3743

v.

\*

JAMES M. SEBASTIAN, JR.

\*

Defendant

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**ANSWER OF JAMES M. SEBASTIAN, JR.**

Defendant James M. Sebastian, Jr., by his undersigned counsel, hereby files this Answer responding to the allegations and averments contained in the Complaint, and as grounds therefore states:

1. The Defendant admits the allegations contained in Paragraph 1 of the Complaint.
2. The Defendant admits the allegations contained in Paragraph 2 of the Complaint.
3. The Defendant denies the allegations contained in Paragraph 3 of the Complaint.
4. The Defendant admits the Plaintiff paid him \$50,000 annually, beginning in 1992, and other amounts thereafter until approximately February 2000, but denies that these payments were in return for, or as compensation for, assuming Plaintiff's financial responsibilities, and Defendant otherwise denies the remainder of the allegations of Paragraph 4 of the Complaint.
5. The Defendant denies assuming Plaintiff's financial responsibilities, and is otherwise without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 5 of the Complaint.

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### COUNT I

14. The Defendant incorporates by reference his responses to the allegations contained in Paragraphs 1 through 13 of the Complaint.

15. The Defendant denies the allegations contained in Paragraph 15 of the Complaint.

16. The Defendant denies the allegations contained in Paragraph 16 of the Complaint.

17. The Defendant denies the allegations contained in Paragraph 17 of the Complaint.

18. The Defendant denies the allegations contained in Paragraph 18 of the Complaint.

19. The Defendant states that the allegations contained in Paragraph 19 of the Complaint are legal averments to which no response is required, and to the extent that a response is required, the averments and allegations are denied.

Further answering the allegations contained in Plaintiff's *ad damnum* clause are a statement of the relief sought to which no response is required. To the extent a response is deemed required, the Defendant denies that Plaintiff is entitled to relief. The Defendant specifically denies any averment or allegation not specifically admitted.

#### FIRST AFFIRMATIVE DEFENSE

The Plaintiff has failed to state a claim upon which relief can be granted.

#### SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of estoppel.

#### THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the statute of limitations.

#### FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims were caused or contributed to by the comparative or contributory fault of

the Plaintiff.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by failure of consideration.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the doctrine of laches.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by payment.

EIGHTH AFFIRMATIVE DEFENSE

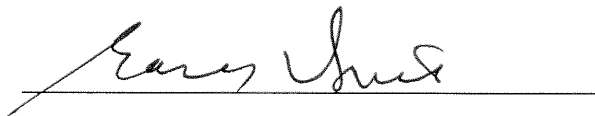
Plaintiff's claims are barred by the statute of frauds.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by waiver.

WHEREFORE, having fully answered, Defendant James M. Sebastian, Jr. prays that the Complaint against him be dismissed, with costs, and for such other relief as is necessary, just and proper.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Earl T. Britt", is written over a horizontal line.

Earl T. Britt  
Britt, Hankins, Schaible & Moughan  
633 West Germantown Pike, Suite 202  
Plymouth Meeting, Pennsylvania 19462-1032  
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Attorneys for James M. Sebastian, Jr.

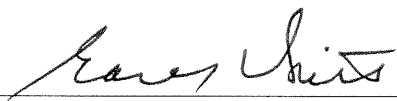
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 19<sup>th</sup> day of June, 2002, a copy of James M. Sebastian, Jr.'s Answer was sent via first class mail, postage prepaid, to:

Peter J. McHugh, Esquire  
Brown, Mayhart, Martin & Schindler  
128 Commons Court  
Commons at Chadds Ford  
P.O. Box 1539  
Chadds Ford, PA 19317

  
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Earl T. Britt